



MINUTES
May 14, 2009
8:30 a.m. – 10:30 a.m.
Missouri Department of Conservation

The meeting was called to order at 8:40 a.m. by Vicki Glenn.

Labor and Industrial Relations – Jim Skain

Jim prepared a blue folder of information for everyone; they should have received when they walked in the door. Questions were sent to Jim ahead of time so he answered those questions for us:

1. If a state agency goes to a reduced work week (32 hours), are the employees allowed to claim unemployment benefits for the loss of those 8 hours? Most likely the answer is NO, I will explain further with the answer to the next question.
2. Is there a minimum number of hours per week (per month, per year) that an employee hired as “full-time” must work in order to be ineligible for unemployment benefits when their organization experiences a work week reduction? WBA + 20% (see handout on subject)
3. Explain furloughs and how those work with unemployment benefits. A furlough is just another word for layoff. The employee is still unemployed for the time period on layoff.
4. Can an employer who is anticipating a week-long furlough deduct the pay from the employees paycheck over 5 months (some preceding and some after the furlough actually takes place) thereby reducing the financial impact to the employees monthly paycheck? Cannot answer this one Does this compromise eligibility for unemployment benefits? Bottom line is if employee off one day a week probably not entitled to UI, if employee is off a week at a time then entitled to UI. First five-day layoff = Waiting Week credit (no monetary benefit), if off another week then would be paid.
5. At what point does an employer jeopardize an EXEMPT employees status when implementing a reduced work week and/or furlough? (actually, this is an FLSA question, which relates to the amount the exempt employee makes per week and thus is likely not something they can answer, but is an important consideration for HR to think about when considering a reduced work week and/or furloughs). N/A

6. Please ask if Missouri is extending the number of weeks a person can draw unemployment and if they are going to raise the amount received. Are they going to do it with stimulus money and then what are the plans after the one time shot in the arm of stimulus money, i.e., who picks up the tab then? We are currently paying up to 59 weeks of UI in Missouri. The maximum in MO is 26 weeks + Emergency Unemployment Compensation Tier I of 20 weeks + EUC Tier II of 13 weeks + additional \$25 a week. All EUC and the additional 25 is paid by Federal Government. **(American Recovery and Reinvestment Act, the stimulus plan signed by President Obama)**
7. Can he provide us with a contact list of who to contact when we have specific questions? For example, we are required to reinstate an individual and needed to know how much unemployment she was paid so we could determine back pay. When we call the general line and asked for this information, we received incorrect information. When we asked for the information in writing, we received information about employment/wages received during the specific time period, but were told that the unemployment earnings were already sent to the employee and we'd have to get it from her. What a process! Occasionally we have questions about a determination – who is the best contact instead of just whoever answers the phone? See PowerPoint printout for Sections and phone numbers.

With regard to getting info from claimant, the claimant can print off our website a very good Claim History that clearly and accurately shows the UI benefits the person received.

8. It is our understanding from a recent appeal hearing that the process of notification of the hearing date is changing. What are the changes and how will we be notified of these changes?
Unsure? New policy on the file?
9. We recently had a case that we protested in May 2008 based on discharge, and DES found in the employee's favor and did not disqualify him. However, in September 2008, we reached a settlement agreement and he resigned in lieu of termination. So in 2009 we received another claim as a base period employer and we protested based on the resignation based on a quit without good cause. We received the determination that the issues were already covered and he again was not disqualified. My question – once the employee files, DES finds for the employee in the initial claims, are we getting anywhere or should we protest a second/subsequent claims? Per UI Programs the answer is no if the first determination is final then protesting in the second year gets exactly what you mention in the question. A form letter saying the issue already handled.
10. As an agency, we receive the claims, respond, get the response, and file it all away. Should we as the agency be doing anything more as far as tracking these claims? How do other agencies handle the claims – do they have a tracking system in place? Pursuant to Division of Employment Security policy the deputy is supposed to send the last employer notice to the address of record for the agency that is in the Division's computer system. May not always happen especially if the agencies name does not necessarily sound like a state agency.

Important to file a protest in a timely manner (10-DAYS) and if asked for follow-up info to get it to the Division within 48 hours (we are under a federal mandate on time frames in resolving an issue on a claim).

11. When protesting, we are currently only providing a copy of the dismissal or resignation letter? Initially, do we need to send the attachments to the letter and/or policies violated OR do we wait until someone from DES tells us what they want/need after they receive our information? We want to do whatever we can to make our and their jobs easier. Send with the protest the specific policy etc, do not send us your entire handbook etc.

- Important Time Limits:
 - Timely protest to a claim – 10 calendar days.
 - Timely appeal to Appeals Tribunal – 30 calendar days.
 - Timely application for review – 30 calendar days.
 - Timely appeal to the Court of Appeals – 30 calendar days.
 - The last day to timely protest and appeal to the Appeals Tribunal appears on the Notice of Claim or Determination. In order to calculate the last timely appeal date, start counting the day after the date of mailing. If the thirtieth day is a Saturday, Sunday or legal holiday the document is timely if filed the next business day.
- Filing A Protest:
 - Protest period is 10 days.
 - A protest can be filed by mail or fax.
 - Use the address or fax number listed on the protest form.
 - Return the protest form when you file it.
 - Include the name and telephone number of the company representative who can provide additional information, if needed.
- Protest Information:
 - Indicate the employee's separation date from your company.
 - Provide specific information regarding the reasons for the employee's separation, especially the final incident.
 - Include any documentation supporting your reasons for protesting.
- Filing an Appeal:
 - Requirements for a Valid Appeal - - written, name and title of the person filing the appeal, brief reason for appeal.
 - Who may File - - the claimant, an Employee of the Employer, or Licensed Missouri Attorney.
 - In Missouri a third party agent cannot file an appeal on behalf of an employer.
- What to Include in the Appeal:
 - The claimant's name and social security number.
 - The Issue number from the determination (Located in the upper right corner).
 - A short reason of why the employer disagrees with the deputy's determination.
- What to do When the Notice Arrives:
 - Read the Notice of Hearing carefully. There is important information on the front and back. This helps you to prepare.

- Note the date and time of the hearing.
 - Mail or fax any proposed exhibits to both the claimant and the Referee at the addresses/number provided on the Notice.
 - Call in the names and phone numbers of witnesses. (The **only** number to use for this is the toll free number listed on the Notice.)
- Order of Proof & Burden of Proof:
 - Quit - - claimant goes first and has burden of proof.
 - Discharge - - employer goes first and has burden of proof.
- Appealing the Referee's Decision:
 - A party has **30 days** from the mailing of a Referees decision to file an appeal to the Labor & Industrial Relations Commission.
 - Appeal Rights are set out on the Referees decision. You should state in your appeal why you believe the Referee erred in his/her decision.
 - Many Employers mistakenly believe that the Commission will conduct a new hearing and that the Employer can present new evidence. The Commission does **not** conduct a new hearing. They can only review the transcript (including exhibits) presented at the hearing.
- Tips to Remember for a Hearing:
 - Read and Follow **all** instructions received from the Appeals Section. This includes calling your phone number in using the toll free number listed on the Notice.
 - Have the correct witnesses available for the hearing (the person with firsthand testimony to offer).
 - Be prepared – have background information ready including dates of employment and dates of events you want to address.
 - Have the materials mailed with the Notice to Telephone Hearing with you because they will be used during the hearing.
 - Read the decision in its entirety when you get it.

OA Personnel – Guy Krause

Guy mentioned that five volunteers are needed for the Committee to Aide State Employees and to contact Denise.Horn@mda.mo.gov. This is one of the organizations you may donate to through the Missouri State Employees Charitable Campaign. (www.msecc.mo.gov)

Flu Epidemic—if you need information contact, Mary Hoskins at mary.hoskins@dhss.mo.gov.

Preliminary Pay Plan:

1. General Within-Grade Salary Advancement of one step advancement for all eligible employees
2. General structure
3. Other options--Repositioning/Targeted

Reminder: PAB's Pay Plan Hearing for FY 2011 will be Tuesday, June 9, 2009 at 1:00 pm in the Truman Building, Room 492.

PAB approved Management Training rule changes.

FMLA questions were discussed.

OA Accounting – Libbie Farrell

Libbie wanted to remind everyone that MOSERS is asking that the D.O.B. (age) be added to all the systems at the same time. (SEBES, SAMII)

During open enrollment there were 130 employees affected by a “pretax - critical illness” through Allstate. Libbie will be calling these individuals, their May 31 check will be different.

Other Business

May 20 – Health & Fitness Day
Missouri State Employees Charitable Campaign (MSECC) – 25th Year

The next meeting will be June 11, 2009 at Runge Nature Center.

The meeting was adjourned.